

REMARKS

In the Office Action, claims 3 and 23 are rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent No. 5,308,832 ("Garleb"); claims 1, 4, 6-9, 11, 13-15 and 23-24 are rejected under 35 U.S.C. § 102 as anticipated by International Patent Publication No. 94/15464 ("DeMichele"); claim 10 is rejected under § 103 as unpatentable over DeMichele; claims 1 and 9 are rejected under 35 U.S.C. § 102 as anticipated by European Patent Document No. 687418 ("Trimbo"); claims 10 is rejected under 35 U.S.C. § 103 as unpatentable over Trimbo; and claims 5, 12 and 25 have been objected to. Claims 1, 3, 4 and 10 have been amended; and claims 5, 12 and 25 have been canceled without prejudice or disclaimer. Applicants believe that the rejections have been overcome as discussed in greater detail below.

At the outset, the Patent Office has indicated that claims 2, 16-22 and 26-40 have been withdrawn as being directed to non-elected subject matter. See, Office Action dated February 27, 2004, page 2. In response, Applicants respectfully submit that claims 26-34 are not directed to non-elected subject matter and thus should not be withdrawn. In the Patent Office Communication dated October 7, 2003 that details a Restriction Requirement, the Patent Office asserted that the present application contained two groups of inventions, namely, Group I, drawn to methods of treating making and composition for sepsis or inflammatory shock; and Group II, claims 16-22 and 35-40, drawn to methods of reducing the risk of sepsis or inflammatory shock. In response to the Restriction Requirement, Applicants elected the claims directed to Group I and thus the claims directed to Group II were considered non-elected subject matter.

With respect to claims 26-34, claims 26-28 depend directly from claim 3 and claims 29-34 depend directly from claim 10. As claims 3 and 10 are considered elected subject matter as even indicated by the Patent Office (See, Office Action dated February 27, 2004, page 2), claims 26-34 should also be considered elected subject matter and thus should be considered during the examination of the present application.

With respect to the prior art rejections, claims 1, 3, 4 and 10 are the sole independent claims at issue. As previously discussed, each of independent claims 1, 3, 4 and 10 have been amended to further recite that the composition comprises a n-6/n-3 fatty acid ratio of about 2/1 to about 7/1. This limitation was recited in claims 5, 12 and 25 all of which were considered allowable if rewritten in independent form. See, Office Action dated February 27, 2004, page 6.

Claims 5, 12 and 25 have been canceled without prejudice or disclaimer in view of same as previously discussed. Therefore, claims 1, 3, 4, 6-11, 13-15, 23, 24 and 26-34 should be deemed patentable over the cited art of record.

Accordingly, Applicants respectfully request that the anticipation and obviousness rejections be withdrawn.

For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,

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